

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

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UNITED STATES OF AMERICA

Plaintiff,

vs.

1:20-cr-01228-KWR

JESSE BARELA,

Defendant.

**ORDER GRANTING MOTION IN LIMINE TO EXCLUDE DISCUSSION OF  
INFORMATION KNOWN ONLY TO DEFENDANT IN FRONT OF THE JURY**


THIS MATTER comes before the Court on the Government's Fifth Motion in Limine to Preclude Discussion of Information Known Only to Defendant in Front of the Jury (**Doc. 107**). The Government seeks an order to preclude Defendant or any defense witnesses from "making any statement, or asking any questions regarding any information or facts which could only otherwise come to the jury's attention through the sworn testimony of Defendant, unless Defendant will, in fact, testify," because such evidence would be inadmissible hearsay. *See Doc. 107, at 1*. For the reasons stated herein, the Court finds that the Government's motion is well taken and therefore is **GRANTED**.

Hearsay is a statement that "the declarant does not make while testifying at the current trial or hearing" and "a party offers in evidence to prove the truth of the matter asserted in the statement." Fed. R. Evid. 801(c)(1)-(2). Hearsay testimony is generally inadmissible. Fed. R. Evid. 802. However, the Federal Rules of Evidence contain a number of exceptions and exclusions to the hearsay prohibition. Further, "[a] statement that is otherwise hearsay...may be offered for

a permissible purpose other than to prove the truth of the matter asserted.” *United States v. DeLeon*, 287 F. Supp. 3d 1187, 1236 (D.N.M. 2018).

Still, hearsay “bars a party from presenting its own statements, such as a defendant attempting to introduce an exculpatory statement made at the time of his arrest[,] without subjecting himself to cross-examination.” *Id.* (internal alterations omitted) (quoting *United States v. Cunningham*, 194 F.3d 1186, 1199 (11th Cir. 1999)). Therefore, absent a permissible purpose or an exception or exclusion to the rules of hearsay, Defendant may not seek to introduce statements to place the Defendant’s remarks before the jury without subjecting himself to cross examination.

**IT IS SO ORDERED.**



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KEA W. RIGGS  
UNITED STATES DISTRICT JUDGE